

**LODI CITY COUNCIL
REGULAR CITY COUNCIL MEETING
CARNEGIE FORUM, 305 WEST PINE STREET
WEDNESDAY, AUGUST 2, 2006**

C-1 CALL TO ORDER / ROLL CALL

The City Council Closed Session meeting of August 2, 2006, was called to order by Mayor Hitchcock at 6:05 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and Interim City Clerk Perrin

C-2 ANNOUNCEMENT OF CLOSED SESSION

- a) Actual Litigation: Government Code §54956.9(a); one case; People of the State of California; and the City of Lodi, California v. M & P Investments, et al., United States District Court, Eastern District of California, Case No. CIV-S-00-2441 FCD JFM
- b) Actual litigation: Government Code §54956.9(a); one case; Hartford Accident and Indemnity Company, et al. v. City of Lodi, et al., Superior Court, County of San Francisco, Case No. 323658
- c) Actual litigation: Government Code §54956.9(a); one case; Peter Rose et al. v. the City of Lodi, et al.; United States District Court, Eastern District of California, Case No. CIV.S-05-02229

C-3 ADJOURN TO CLOSED SESSION

At 6:05 p.m., Mayor Hitchcock adjourned the meeting to a Closed Session to discuss the above matters.

The Closed Session adjourned at 7:12 p.m.

C-4 RETURN TO OPEN SESSION / DISCLOSURE OF ACTION

At 7:18 p.m., Mayor Hitchcock reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

Item C-2 (a) was discussion only.

In regard to Item C-2 (b), settlement direction was provided regarding one of the carriers.

Item C-2 (c) was not discussed.

A. CALL TO ORDER / ROLL CALL

The Regular City Council meeting of August 2, 2006, was called to order by Mayor Hitchcock at 7:18 p.m.

Present: Council Members – Beckman, Hansen, Johnson, Mounce, and Mayor Hitchcock

Absent: Council Members – None

Also Present: City Manager King, City Attorney Schwabauer, and Interim City Clerk Perrin

B. INVOCATION

The invocation was given by Lieutenant Dan Williams, Salvation Army.

C. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Mayor Hitchcock.

D. AWARDS / PROCLAMATIONS / PRESENTATIONS

D-1 Awards – None

D-2 Proclamations – None

D-3 (a) Mayor Hitchcock presented a Resolution of Appreciation to Hayden Goni Johnson for his donation of the artwork piece titled “Lodi Lake Revisited” to the City of Lodi. Hayden chose to donate the painting to the City of Lodi in celebration of its Centennial.

D-3 (b) Interim City Clerk Perrin introduced former City Clerk, Alice Reimche, who gave an update on the following Heritage Celebration events scheduled for the weekend of August 19 to 21, 2006:

Saturday, August 19

- Pancake breakfast, sponsored by the Kiwanis Club from 8 to 11 a.m. in the parking lot at Walnut and Sacramento Streets;
- Kick-off ceremony at the Lodi Train Depot, which will include the Lodi Community Band, visiting dignitaries, and entertainment. The Lodi Historian publication entitled, “Mokelumne,” and children’s activity books and crayons will be distributed to visitors. The books were printed by the Lodi Unified School District and have been made available to each school principal;
- Historical tours of Lodi on the GrapeLine trolley. The tours include a map with 14 designated sites and will depart every hour from the Lodi Train Depot;
- Vintage car show featuring 250 vintage cars on display from the American Steel Car Club on School Street, between Pine Street and Lodi Avenue;
- Exhibit of vintage photographs from the Bank of Stockton at the Gold Room of the Hotel Lodi;
- Victorian High Tea at the Lodi Woman’s Club, one at 11 a.m. and a second seating at 3 p.m. The Lodi Historian publication on the history of the Woman’s Club will be distributed to attendees; and
- Silent movie night at Hutchins Street Square at 7 p.m., at which Lodi mayors will be honored and recognized. Several prizes will be awarded, including a \$1,000 gift certificate for a family trip to Disneyland.

Sunday, August 20

- Church bells throughout Lodi will chime at 1 p.m.;
- An inter-denominational church service will be held at the United First Methodist Church at 3:30 p.m.; and
- A concert in the park will be held at Hutchins Street Square at 6 p.m., preceded at 5 p.m. by free ice cream compliments of Umpqua Bank.

Monday, August 21

Ron Williamson provided an update regarding the Heritage Golf Tournament, which will be held at the Woodbridge Golf and Country Club. The cost is \$85 and includes green fees, range balls, continental breakfast, golf cart, gourmet lunch, and outstanding tee prizes. There will be three hole-in-one opportunities to win cars donated by Geweke Motors.

E. CONSENT CALENDAR

In accordance with the report and recommendation of the City Manager, Council, on motion of Council Member Hansen, Beckman second, unanimously approved the following items hereinafter set forth **except those otherwise noted**:

E-1 Claims were approved in the amount of \$2,694,423.57.

E-2 The minutes of June 20, 2006 (Shirtsleeve Session) were approved as written.

- E-3 Approved the plans and specifications and authorized advertisement for bids for pool deck improvements at Blakely Park – Enze/Field Pool Complex, 1050 S. Stockton Street.
 - E-4 Approved the plans and specifications and authorized advertisement for bids for Water/Wastewater Replacement Program (Project No. 3, Greater Downtown Area).
 - E-5 Approved the specifications and authorized advertisement for bids for polemount and padmount transformers for the Electric Utility Department.
 - E-6 Adopted Resolution No. 2006-145 awarding the bid for 20,000 feet of #1/0 600-volt triplex to Hughes Utilities, of Portland, Oregon, in the amount of \$20,817.30.
 - E-7 Adopted Resolution No. 2006-146 awarding the contract for Municipal Service Center Additional Compressed Natural Gas Installation Project to Performance Mechanical, Inc., of Pittsburg, California, in the amount of \$44,602, and appropriated additional funds in the amount of \$10,000 in accordance with staff recommendation.
 - E-8 Adopted Resolution No. 2006-147 awarding the contracts for necessary process chemicals for the White Slough Water Pollution Control Facility to Basic Chemical Solutions, of Santa Fe Springs, California, in the amount of \$46,000, and to Polydyne, of Riceboro, Georgia, in the amount of \$29,200.
 - E-9 Adopted Resolution No. 2006-148 approving work by West Yost & Associates for ongoing regulatory activities at the White Slough Water Pollution Control Facility and appropriating funds in the amount of \$119,100 in accordance with staff recommendation.
 - E-10 Adopted Resolution No. 2006-149 approving final map and improvement agreement for Interlake Square, Tract No. 3532 (north of Park Street between School Street and Sacramento Street).
 - E-11 Approved the fares for Cultural Homestay International (a non-profit organization) use of transit services for calendar years 2006 and 2007.
 - E-12 “Adopt resolution authorizing the City Manager to execute an agreement with the World of Wonders Science Museum for an option to lease and a subsequent lease of retail space in the Lodi Station Parking Structure” was **removed from the Consent Calendar and discussed and acted upon following approval of the Consent Calendar.**
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ACTION ON ITEM REMOVED FROM THE CONSENT CALENDAR

- E-12 “Adopt resolution authorizing the City Manager to execute an agreement with the World of Wonders Science Museum for an option to lease and a subsequent lease of retail space in the Lodi Station Parking Structure”

Council Member Hansen requested an update on the efforts of the Science Museum.

PUBLIC COMMENTS:

- Sally Snyder, representing the World of Wonders Science Museum, reported that there has been one private fundraiser event to date and another six events are being planned for the future, including the upcoming fundraiser scheduled for September 2 at Lodi Lake for the entire community. Ms. Snyder has made presentations at various service clubs and intends to continue that effort with local organizations and businesses. Anyone wishing to contribute to the museum may send donations to The World of Wonders Science Museum, P.O. Box 1671, Woodbridge, CA 95258. In response to

Mr. King, Ms. Snyder reported that one of the fundraisers was to sell various elements from the periodic table, for which the contributors' names would be permanently displayed at the Science Museum. There are a few elements remaining for sale, and anyone interested was urged to visit the Web site at www.wowsciencemuseum.org.

MOTION / VOTE:

The City Council, on motion of Council Member Hansen, Mounce second, unanimously adopted Resolution No. 2006-150 authorizing the City Manager to execute an agreement with the World of Wonders Science Museum for an option to lease and a subsequent lease of retail space in the Lodi Station Parking Structure.

F. COMMENTS BY THE PUBLIC ON NON-AGENDA ITEMS

- Yoeum Barron, Group Sales Manager with the Lodi Conference and Visitors Bureau (LCVB), announced that it will be hosting a free two-hour class for companies who are interested in doing business with tour operators. The class will focus on ideas for restaurants, hotels, and attractions to work with tourism groups and will be held on August 9 from 2 to 4 p.m. in the Cellar Room at Wine and Roses. Anyone interested in attending the class may contact the LCVB at 365-1195. Further, Ms. Barron announced that the LCVB reached a milestone by filling more requests for visitor information over the last year. Total requests for 2005 were 1,392, and as of June 30, 2006, the number of requests reached 1,474.
- Elton Loh distributed information regarding live organ harvesting from Falun Gong practitioners in China (filed) and encouraged people to sign a statement of support at www.investigation.go.sveinter.net/ in order to spread the word on this issue.
- Jenny Loh, as translated by Elton Loh, presented information regarding the Falun Dafa, also known as Falun Gong (filed), and spoke of persecution by the Chinese Government.

G. COMMENTS BY CITY COUNCIL MEMBERS ON NON-AGENDA ITEMS

- Council Member Hansen reported that the Northern California Power Agency Commission recently voted to sell power to the city of Roseville, from which the City of Lodi will realize \$101,000 in proceeds. At a recent San Joaquin Council of Governments (SJCOC) meeting, the board received a presentation on the California Inter-Regional Inter-Mobile System Rail Transportation Implementation Planning Study, which is a long-term implementation plan for a rail shuttle system to connect the Port of Oakland with freight hubs and inter-mobile facilities in the San Joaquin valley. The concept is that freight containers would come into the Port of Oakland and be loaded onto trains that come into the San Joaquin valley; thereby, eliminating hundreds of trailer rigs on the freeways, which would improve the quality of air. The full report is available on SJCOC's Web site at www.sjcog.org. Mr. Hansen stated that he enjoyed the National Night Out event this year and was impressed with the kindness of those he visited, particularly in light of the many challenges presently facing the community. To reduce the amount of complaints from those whose vehicles are towed from the Farmers Market and the Parade of Lights, Sergeant Patterson suggested to him that the City consider towing vehicles to a temporary City lot, rather than to the storage yard. Often times, the no parking signs will fall down due to inclement weather or people do not see the signs. The cars are typically claimed quickly and this would eliminate the high cost of the gate fees to retrieve vehicles and also reduce the number of complaints. He encouraged staff to support this proposal by the Lodi Police Department and suggested that it be brought back to Council.
- Mayor Pro Tempore Johnson reported that the San Joaquin Partnership, which is a public-private partnership for economic development in this area, is very supportive of the California Inter-Regional Inter-Mobile System Rail Transportation Implementation Planning Study that Mr. Hansen mentioned earlier. This plan is a positive step for the San Joaquin valley in terms of economic development, as the Port of Stockton is under-utilized and this would create additional jobs within the county.

- Mayor Hitchcock requested that the issue of a growth moratorium be scheduled for a future meeting. She felt the City did not have adequate staff to handle the numerous projects moving forward, including the Westside Master Plan, Southwest Gateway, Reynolds Ranch, and the future project at Mills Avenue and Harney Lane, with over 4,000 homes proposed to be built. The City does not have the ability to move forward at the pace at which developers would prefer, and she believed the City did not have a General Plan in place that provides a vision for what the community should look like beyond Harney Lane.

H. COMMENTS BY THE CITY MANAGER ON NON-AGENDA ITEMS

- City Manager King announced that the City offers a budget billing program that levels out electric bills over a 12-month period. Customers could spread the high summer bills over the low winter months and create a balanced payment plan. To qualify for the program, customers must establish a previous 12-month history of paying electric bills and have the account paid in full. He encouraged anyone interested in the program to contact the City of Lodi Finance Department at 333-6719. Presently, there are approximately 1,500 people who take advantage of the program.

I. PUBLIC HEARINGS

None.

J. COMMUNICATIONS

J-1 Claims filed against the City of Lodi – None

J-2 The following postings/appointments were made:

- a) The City Council, on motion of Mayor Pro Tempore Johnson, Hitchcock second, unanimously made the following appointments:

Greater Lodi Area Youth Commission

Student Appointees:

Jordan McCroskey

Term to expire May 31, 2007

Jonathan Newman

Term to expire May 31, 2007

J-3 Miscellaneous – None

K. REGULAR CALENDAR

K-1 “Provide direction regarding land lease with the Community Partnership for Families of San Joaquin for construction of a Family Resource Center at Blakely Park and to provide 40 hours in-kind project management assistance from the Public Works Department prior to execution of the lease”

City Manager King reminded that Council previously considered this matter on May 17 and directed staff to further discuss with the Community Partnership for Families (CPF) various issues regarding a land lease at Blakely Park on the Lodi Boys and Girls Club site. The proposed 5,140 square foot facility would house the activities of CPF, and should Council opt to pursue the land lease, staff would recommend approval of up to 40 hours of in-kind services by the Public Works Department to assist with project management. CPF, which is a non-profit organization, has proposed that the lease be offered to it at very low terms, similar to that of the Lodi Boys and Girls Club, and the organization would solicit funds or grants for construction of the facility. This matter has been discussed at the Parks and Recreation Commission level.

PUBLIC COMMENTS:

- Robina Asghar, representing CPF, encouraged the Council to approve the land lease at Blakely Park for the purpose of a Family Resource Center. CPF has been at Blakely Park for the last five years, working closely with the Lodi Boys and Girls Club, and it would like to have a permanent facility at that location.
- Larry Wenell, representing Wenell Mattheis Bowe Architects, using an overhead presentation (filed), reviewed the proposed plans for the Family Resource Center. The entrance to the facility would face south at the front of the playground area, and there would be a waiting area, office workstations, small break room, restrooms, and multipurpose rooms. The design also calls for an information resource center, out of which the Lodi Public Library is considering operating a small branch library with computers, literature, books, and children's programs. One of the major issues at this park is the existing restroom facility, which is outdated and has been a security concern for the Police Department due to the location of the entrance. This proposal would construct a new public restroom on the corner, facing the street, and would help to address the safety issues. The building would enclose the existing Head Start playground and would re-build the fences in order to create additional room in the playground area. The new public playground would be split into two parks, and there would be an additional 12 parking spaces, an area for bicycle parking, and built-in bench barriers so the children would not run into the parking lot. The City's remodeling of the park removed the group picnic area, and this proposal would put back three picnic spots with additional landscaping for shade. It is proposed that the horseshoe pit be removed as it is rarely utilized. In general, this design would enhance the park to be more functional for the community and better supervised, and the facility would be built to match the present design of the Lodi Boys and Girls Club.

Council Member Beckman thanked Mr. Wenell for providing the elevations and the floor and site plans as they addressed his previous concerns and he further expressed support for the project.

Council Member Hansen questioned if the original plan had the potential site further on the north side of the Lodi Boys and Girls Club, to which Mr. Wenell replied in the affirmative. Mr. Hansen expressed support for this revised plan as it was a better use of the land and tied nicely into the existing facilities. He believed this design lessened the impact on the overall park by using less than 2% of the park space.

Council Member Mounce questioned if the park was losing or gaining space due to the change in the playground and picnic areas, to which Mr. Wenell responded that the new City playgrounds would be substantially larger than the old playground. The group picnic area was rarely used, and this plan would have the same amount of tables; however, spreading them out would allow families to enjoy the park without being grouped together with others. The design would be much more inviting.

- Richard Jones, President of the Lodi Boys and Girls Club, stated that CPF began leasing two 10x10 office spaces at its facility more than six years ago and he believed its programs complement the activities offered by the Boys and Girls Club. Because of this partnership and the growth of its programs, the Boys and Girls Club has leased a portion of its building to a teen center as well. Three years ago, the Lodi Boys and Girls Club averaged 3,700 youth served; year 2005 identified 5,222 youth served, and Mr. Jones attributed that to the relationship that has developed between the Lodi Boys and Girls Club and CPF. He expressed concern regarding the current situation with the public restroom facilities and its unsafe condition for the children. He felt confident that the plan provided sufficient space for people to still play sports and that the removal of the horseshoe pit would not negatively affect the park. He viewed the proposed CPF facility as a sister building to the Lodi Boys and Girls Club and as a tremendous asset to the people of this community. He and the Lodi Boys and Girls Club board of

directors fully support this project as long-term stability for the east side of Lodi and he encouraged Council to approve the plan.

In response to Mayor Pro Tempore Johnson, Mr. Jones stated that there is a possibility that the space vacated by CPF would be leased to a health clinic, to which Mr. Johnson expressed concern that this would be yet another impact on the park.

- Shahnaz Shah stated that she was a teacher for girls attending a charter school independent study program. Many of these girls do not carry on their education past the sixth grade; therefore, she provides tutoring at the CPF facility as most live on the east side. This location offers easy access, particularly for those without a mode of transportation. She encouraged Council to support the proposal.
- Nagina Akbar stated that she had previously utilized the services of CPF and is now employed with the organization as a health organizer, working with Pakistani women on preventative health care measures and offering informational resources. CPF has provided opportunities to the community to build relationships between different cultures and provided information, workshops, and training on issues such as health, nutrition, and adult literacy. She encouraged the Council to support this center.
- Laura Ochoa stated that many services and activities are needed for the youth that would provide positive experiences in developing leadership roles, and she believed CPF accomplished that in collaboration with other agencies such as the Lodi Boys and Girls Club. Ms. Ochoa has worked with CPF for two years, has volunteered at Celebration on Central, and has worked with the Hispanic community in developing various events, including the upcoming Mexican Independence Day at Lawrence School. CPF has provided many services for east side residents, such as organizing a candidates' night and polling parties to increase voter turnout on the east side. She expressed support for the Family Resource Center being built next to the Lodi Boys and Girls Club.
- Maria Ochoa (as translated by Laura Ochoa) stated that she believed in keeping cultures and traditions alive, and CPF works toward that effort by providing cultural events, meetings, and workshops that involve and teach children to feel proud of their heritage. The current CPF facility does not have enough space, which often has an affect on the level of participation. Many attendees do not have transportation; however, the location at Blakely Park is convenient and within walking distance.
- Brenda Gallardo (as translated by Laura Ochoa) expressed support for the center as a place for the community to gather and develop their abilities. CPF has been providing activities for children and youth in order to teach them about their culture and to create awareness about their value as a community member. Every day, there are more people who want to get involved; however, due to the lack of space, meetings are often canceled. She believed that the availability of these activities would protect children from getting involved in gang activities and she expressed support for making the public restroom facilities safer for those using the park and the CPF facility.
- Ann Cerney stated that CPF is a wonderful program and it needs to be fully supported by the community to the extent that public resources can be extended. She expressed concern, however, about the use of park land, which is irreplaceable and beyond value. She believed that there are public agencies served by CPF and that most of the public agency work to be done is provided by either federal or state dollars; therefore, public health, for example, should do its part to ensure there are proper facilities and land. Ms. Cerney suggested that the City consider building up (i.e. second story facilities) in order to preserve the green space and maintain the same square footage of parkland.

Council Member Mounce stated that she supports the efforts of CPF; however, she expressed concern about park land being utilized in this manner and that this use may

hinder the City from adding pools or other uses at the park in the future. She suggested CPF consider constructing its facility on the empty lot at 217 East Lockeford Street, which is currently unused and blighted. She stated that she would not support the project at the Blakely Park location.

Mayor Pro Tempore Johnson stated that he was not in favor of the project at Blakely Park and also suggested that CPF consider other locations such as Maple Square, which is an under-utilized building on a .6 acre site, or other vacant parcels. He pointed out that CPF is jumping from a 400 square foot building to 5,140 square feet in the proposed facility.

Council Member Hansen applauded the efforts of CPF, which serves the needy, poor, and disadvantaged of this community, and he believed the design of the facility left 96.9% of the park untouched, which was a reasonable compromise. CPF utilizes 400 square feet presently simply because that is the amount of space available to it, and 5,140 square feet would provide many opportunities for it to better serve the community.

MOTION:

Council Member Hansen made a motion, Beckman second, to authorize the City Manager to negotiate a land lease with the Community Partnership for Families of San Joaquin for construction of a Family Resource Center at Blakely Park and further to approve 40 hours in-kind project management assistance from the Public Works Department prior to execution of the lease.

DISCUSSION:

Mayor Hitchcock stated that this is a neighborhood park, which is intended to meet the needs of the neighborhood, and Council heard from residents in the area expressing support for CPF in order to address its safety concerns and because of its convenient location and valuable services. CPF is asking for space and in-kind services, not for the City to construct the building, and Mayor Hitchcock supported the request.

VOTE:

The motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, and Mayor Hitchcock

Noes: Council Members – Johnson and Mounce

Absent: Council Members – None

PUBLIC COMMENT:

- Francisco Trujillo thanked the Council for approving the proposal.

RECESS

At 9:14 p.m., Mayor Hitchcock called for a recess, and the City Council meeting reconvened at 9:26 p.m.

K. REGULAR CALENDAR (Continued)

- K-2 “Provide direction regarding scheduling and type of action the Council may take at informal informational meetings referred to as “Shirtsleeve” City Council meetings”

City Manager King reported that the City of Lodi has a long-standing tradition of having Tuesday morning Shirtsleeve Sessions at 7 a.m., at which no formal action is permitted, in order to discuss specific topics in depth. Recently, the question has arisen as to what the concept of no formal action means. Pursuant to the Brown Act, when the Council meets and receives information on issues that may be acted upon in the future, this would be considered part of the deliberate process of making a decision. A formal action means making a motion or adopting a resolution or ordinance. The Brown Act defines three levels of meetings in terms of posting requirements, the highest of which are regular meetings, next are special meetings, and lastly are emergency meetings. Perceived direction by

Council include directions given during the course of a meeting, nodding of heads in agreement, questions posed by individual Council Members, etc., and it is difficult for staff to ascertain whether or not that should be considered as direction. Another concern with Shirtsleeve Sessions is the early morning start time, which may preclude many citizens from attending, and he suggested an alternative of moving the study sessions to the 2nd and 4th Wednesdays of the month to an evening start time prior to the regular Planning Commission meetings. The sessions would then be capped at 90 minutes. Mr. King pointed out that often times a regular Shirtsleeve Session is canceled in order to have a special meeting to allow Council to take action on an item, which appeared to be inconsistent with the premise of the Brown Act. The topic, or limit of what Council action can be taken, is governed by the agenda title and could be used to better regulate what may take place at a Shirtsleeve Session.

Council Member Hansen expressed concern that it has been frustrating recently as to what is and is not considered Council action or direction. He believed that staff formulates opinions on where each Council Member stands on an issue based upon questions asked at a Shirtsleeve Session; however, the alternative is that Council only receive information without offering any comments, feedback, or questions. He was not opposed to the Wednesday evening alternative, but stated that his primary goal was to create a system that would allow Council to receive information and respond without creating confusion or conflicts.

Mayor Hitchcock stated that, should Council allow direction at Shirtsleeve Sessions, the Council may spend more time attempting to make their points and persuade others to agree, rather than accepting the information. She believed Council has done a fine job in discussing the topics in depth and asking questions that do not provide direction and she believed the Council could monitor itself well enough to continue in that manner. Council should conduct its business in the "light of day," which is not accomplished at 7 a.m., and she believed the original intention of the Shirtsleeve Sessions was to provide Council with an opportunity to discuss specific topics in depth that it could not otherwise do at a regular meeting. Mayor Hitchcock expressed concern that Comcast would not be available to televise the alternate Wednesday meetings due to staff limitations and stated that she believed Comcast was required to accommodate this type of request as part of its franchise agreement. She stated that she was uncomfortable with calling Shirtsleeve Sessions regular meetings, as well as providing direction, particularly if the meetings are held in the early morning or if they cannot be televised in the evenings.

Mayor Pro Tempore Johnson pointed out that, if Council provided direction at a Shirtsleeve Session on an issue, no formal action occurs until it comes back to the City Council at a regular meeting for a formal vote (i.e. motion, resolution, or ordinance). He further expressed concern that very few members of the public attend the meetings, despite efforts to make the meetings more convenient and accessible, and he believed that holding the meetings on Wednesday evenings would still not bring a high attendance rate. The public will attend if it has an issue of importance and will find a way to participate, whether they are in the morning or the evening; regardless, the City will not appease everyone.

Council Member Beckman added that the act of Council voting on an issue is the moment when formal action is taken. He believed the spirit of the original intention of Shirtsleeve Sessions was to allow Council the opportunity to discuss the framework of and concerns regarding an issue, which would subsequently be approved by Council at a regular meeting before the public. He believed the Council has complied with that philosophy.

MOTION:

Council Member Beckman made a motion, Mounce second, to continue with the current practice of Shirtsleeve Sessions (i.e. Tuesday mornings at 7 a.m.), at which no formal

action would be taken by the City Council, and that the meetings be agendized as “regular meetings.”

DISCUSSION:

Mayor Hitchcock questioned if a straw vote would be considered formal action, to which Council Member Beckman stated that it would be a non-binding vote that does not cause any action to be taken. It is merely providing opinions or questions from the Council.

City Attorney Schwabauer proposed that, in order to carry out this motion, the Shirtsleeve Sessions be agendized as regular meetings and that the title include language to indicate that Council would “provide direction.” This would give Council the ability to follow its internal rules yet still provide the limitation that no final action would be taken.

Mayor Hitchcock stated that she would not support the motion.

PUBLIC COMMENTS:

- Ann Cerney expressed support for moving the Shirtsleeve Sessions to the alternating Wednesday evenings, which would be more convenient for most people to attend. She added that she believed nodding of the heads, three out of the five agreeing, and straw votes do constitute action and is a litigable issue.
- Dennis Haugan also expressed support for the evening Shirtsleeve Sessions. For him to attend the morning meetings, he must use vacation time or make special arrangements with others at work in order to participate. He suggested that the evening meetings run from 5:00 to 6:30 p.m. in order to provide time for the Planning Commission to set up prior to its 7:00 p.m. meeting.

VOTE:

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mounce

Noes: Council Members – Mayor Hitchcock

Absent: Council Members – None

Mayor Hitchcock questioned if the ordinance would require an amendment, to which Mr. Schwabauer replied in the affirmative.

- K-3 “Approve expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel (\$322,793.33)”

City Attorney Schwabauer reviewed expenses incurred by outside counsel/consultants as outlined in the staff report and further revised the total to \$150,395.24.

MOTION:

Council Member Beckman made a motion, Mounce second, to approve the expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation and various other cases being handled by outside counsel in the revised amount of \$150,395.24, as detailed below:

Folger Levin & Kahn - Invoices Distribution

				183453.732
Matter No.	Invoice No.	Date	Description	Total Amount
8002	95866	5/30/2006	People v. M&P Investments	52,768.77
				(2,047.00)
8003	95868	5/30/2006	Hartford Insurance Coverage Litigation	85,337.78
				(650.00)
8008	95867	5/30/2006	City of Lodi v. Envision Law Group	3,668.44
	13374	5/30/2006	Keith O'Brien/PES Environmental, Inc.	2,264.84
	6235	5/30/2006	Peter Krasnoff/West Environmental	2,440.00
				143,782.83

Kronick Moskovitz Tiedemann & Girard - Invoices Distribution

				Total Amount	Distribution	
Matter No.	Invoice No.	Date	Description		100351.732	183453.732
11233.001	226188	06/25/06	General advice	67.50	67.50	
11233.027	226188	06/25/06	Citizens for Open Govt. v. City of Lodi	1,516.50	1,516.50	
11233.029	226188	06/25/06	AT&T v. City of Lodi	1,259.91	1,259.91	
11233.030	226188	06/25/06	Water Supply Issues	3,768.50		3,768.50
				6,612.41	2,843.91	3,768.50

DISCUSSION:

Mayor Hitchcock questioned why the City was continuing to pay bills regarding the Citizens for Open Government case, to which City Attorney Schwabauer responded that this suit was dismissed at the trial court level; however, it is on appeal with the appellate court. The opening brief by the Citizens for Open Government has been filed and the respondent brief by the real parties is due in the next couple of weeks.

PUBLIC COMMENTS:

- Ann Cerney added that the opening brief by the Citizens for Open Government was costly, and she presumed that the City's 90-page response would bring with it an extensive invoice.

In response to Mayor Hitchcock, Mr. Schwabauer confirmed that these costs are being borne by Wal-Mart.

VOTE:

The above motion carried by a unanimous vote.

K-4 "Adopt resolution amending Traffic Resolution 97-148 by approving speed limit modifications as follows (PW):

- Reduce Century Boulevard between west City limits and Ham Lane from 45 to 40 miles per hour
- Increase Century Boulevard between Hutchins Street and Church Street from 25 to 30 miles per hour
- Increase Kettleman Lane between Beckman Road and east City limits from 40 to 45 miles per hour
- Reduce Loma Drive between Elm Street and Lockeford Street from 30 to 25 miles per hour"

Paula Fernandez, Senior Traffic Engineer, reported that traffic engineering staff performed engineering and speed surveys for 11 streets in accordance with the California Vehicle Code. Several factors are considered including prevailing speed, accidents, and unexpected conditions. In order for the Police Department to enforce streets using radar, the City must update the streets every five years. These 11 streets were up for renewal or

were newly constructed streets. The Police Department concurs with the staff recommendation on the revised speed limits. Should Council not approve staff recommendation, it would eliminate the Police Department's ability to enforce speed limits using radar.

Mayor Pro Tempore Johnson questioned why Century Boulevard was being reduced in one area and increased in another, to which Ms. Fernandez stated that the 85th percentile calculations determined the appropriate speed for each location.

In response to Council Member Hansen, Sergeant Steve Carillo explained that the 85th percentile concept involves a survey of speeds by officers in unmarked cars and takes into account tail gaiting, school zones, alleys, etc. The 85th percentile represents the speed that 85% of the drivers are traveling and is perceived as a rate of speed that is reasonable for the weather, traffic, and street conditions.

In response to Mayor Hitchcock, Sergeant Carillo responded that the 85th percentile is determined under normal driving conditions and relies on the police officer's experience and expertise.

MOTION #1:

Council Member Hansen made a motion, Beckman second, to adopt Resolution No. 2006-151 amending Traffic Resolution 97-148 by approving speed limit modifications as follows:

- Increase Century Boulevard between Hutchins Street and Church Street from 25 to 30 miles per hour;
- Increase Kettleman Lane between Beckman Road and east City limits from 40 to 45 miles per hour;
- Reduce Century Boulevard between west City limits and Ham Lane from 45 to 40 miles per hour; and
- Reduce Loma Drive between Elm Street and Lockeford Street from 30 to 25 miles per hour.

DISCUSSION:

Council Member Mounce requested that the motion be split into two votes as she was not in favor of increasing the speed limits. She felt that 85% of the drivers were not abiding by the current speeds and they were being rewarded by changing the speed limit.

AMENDED MOTION #1 / VOTE:

Council Member Hansen amended his motion, Beckman second, to adopt Resolution No. 2006-151 amending Traffic Resolution 97-148 by approving speed limit modifications as follows:

- Increase Century Boulevard between Hutchins Street and Church Street from 25 to 30 miles per hour; and
- Increase Kettleman Lane between Beckman Road and east City limits from 40 to 45 miles per hour.

The above motion carried by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, and Mayor Hitchcock

Noes: Council Members – Mounce

Absent: Council Members – None

MOTION #2 / VOTE:

The City Council, on motion of Council Member Hansen, Beckman second, unanimously adopted Resolution No. 2006-152 amending Traffic Resolution 97-148 by approving speed limit modifications as follows:

- Reduce Century Boulevard between west City limits and Ham Lane from 45 to 40 miles per hour; and
- Reduce Loma Drive between Elm Street and Lockeford Street from 30 to 25 miles per hour.

K-5 “Adopt resolution authorizing the City Manager to allocate Public Benefit Programs, and/or execute contracts with professional service organizations to assist in coordinating designated Public Benefit-funded programs, as identified below for the 2006-07 fiscal year:

- Continuation of the Lodi Solar Schoolhouse Project (\$25,000)
- Extension for one year the Lodi LivingWise Program (\$20,000)
- Extension of the Lodi Appliance Rebate Program (\$30,000)
- Extension of the Lodi Energy Efficient Home Improvement Rebate Program (\$70,000)
- Extension of the Lodi Commercial Rebate Program (\$25,000)
- Extension of the Industrial Customer High Efficiency Rebate Program (\$140,000)”

George Morrow, Electric Utility Director, reported that the Public Benefits Program was created by the deregulation bill passed in California in 1995 and later extended through 2011 by a second bill. This law requires electric utilities to collect and spend 2.85% of revenue on a qualified public benefits program. There are four categories in the program: conservation or energy efficiency; renewable technologies; research and development; and low-income services. Lodi’s program was first implemented in 1998, and a 2.5% rate increase was implemented to fund the program. Mr. Morrow reviewed the expenditures and pointed out that the City was to have expended \$10.7 million from 1998 through the end of last fiscal year. The City has spent \$1.9 million more than what was required due to the fact that funds for the various programs (i.e. solar and rebate programs), renewable expenditures (i.e. geysers used to enhance the steam underground), and low-income programs are allowed to be applied toward the program. The requirement for fiscal year 2007 is to spend \$1.8 million, and the Electric Utility budget has \$1.5 million earmarked in public benefit program funds. Mr. Morrow assured Council that this was acceptable as the City exhausted more than what it was required to in previous years and there is no timeframe for expenditures—the City can draw down the \$1.9 million balance. Mr. Morrow briefly reviewed the programs before Council for consideration and distributed a newsletter (filed) regarding the Lodi Solar Schoolhouse Program.

Council Member Hansen stated that the City has been criticized on the manner in which the Electric Utility has expended funds and many have suggested this as a way to reduce expenditures; however, it is not an option for the City as this is a mandate for all publicly- and privately-owned utilities. Many people participate in the public benefits programs, which contribute toward efficiency. Mr. Hansen questioned if the various programs typically resulted in unused funds at the end of the year, to which Rob Lechner, Manager of Customer Services, stated that, for the past fiscal year, all of the rebate program funds were depleted four months shy of ending the fiscal year. He expected a similar, if not better, response next year.

Mayor Pro Tempore Johnson questioned why the Grape Bowl was receiving a public benefit from the City, to which Mr. Lechner explained that in 2004 Council approved a direct grant for renewable energy resources for the Grape Festival; however, the project was delayed until the Festival could receive the 50% match in funds from Pacific Gas & Electric and the Energy Commission self-generation fund. The solar project was installed at the Grape Festival approximately one week ago and should be up and running soon. Mayor Pro Tempore Johnson expressed concern in providing the county with the City’s limited funds for rebate programs such as this.

In response to Council Member Mounce, Mr. Lechner provided an overview of the following two programs:

- Lodi Energy Efficient Home Improvement Rebate Program – This allows the average home owner or renter to make basic improvements in their homes, including air duct replacement; duct work repair; attic and wall insulation; radiant barrier or thermal shields; whole house, attic, and ceiling fans; shade screens; and window tinting. The total project account is \$70,000 and customers can receive up to \$250.
- Lodi Helping Hands Program – This program is still under development and would help to weatherize homes for low-income families. Previously, the City utilized teenagers for this program who were trained to perform this work, and last year, the program employed a firm called Youth Energy Services. The program is proposed to be funded with \$20,000 and will come back before Council for approval in the next couple of months.

PUBLIC COMMENTS:

- Ann Cerney expressed support for the Public Benefits Program and believed these funds should not be utilized as a solution to the City's difficult financial position.

Mr. Lechner reported that last fiscal year 1030 residential customers took part in the program and over 30 customers on the commercial/industrial side participated. Staff intends to perform additional outreach on the commercial side to increase involvement.

MOTION / VOTE:

The City Council, on motion of Council Member Mounce, Hitchcock second, unanimously adopted Resolution No. 2006-153 authorizing the City Manager to allocate Public Benefit Programs, and/or execute contracts with professional service organizations to assist in coordinating designated Public Benefit-funded programs, as identified below for the 2006-07 fiscal year:

- Continuation of the Lodi Solar Schoolhouse Project, in the amount of \$25,000;
- Extension for one year the Lodi LivingWise Program in the amount of \$20,000;
- Extension of the Lodi Appliance Rebate Program in the amount of \$30,000;
- Extension of the Lodi Energy Efficient Home Improvement Rebate Program in the amount of \$70,000;
- Extension of the Lodi Commercial Rebate Program in the amount of \$25,000; and
- Extension of the Industrial Customer High Efficiency Rebate Program in the amount of \$140,000.

L. ORDINANCES

- L-1 Following reading of the title of Ordinance No. 1781 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 5 – Permits And Regulations – Chapter 5.40, 'Adult-Oriented Businesses,' by Repealing and Reenacting Section 5.40.020, 'Location of Adult-Oriented Businesses,' to Add 'Residentially-Zoned Property' to the List of Land Uses Subject to Distance Regulations Regarding the Location of Adult-Oriented Businesses; and Repealing and Reenacting Section 5.40.400(D)(1) to Delete the Requirement that Employees of Adult-Oriented Businesses be Fingerprinted as Part of the Employee License Process," having been introduced at a regular meeting of the Lodi City Council held July 19, 2006, the City Council, on motion of Mayor Pro Tempore Johnson, Beckman second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, Mounce, and
Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

- L-2 Following reading of the title of Ordinance No. 1782 entitled, "An Ordinance of the City Council of the City of Lodi Amending Lodi Municipal Code Title 17 – Zoning – Chapter 17.39, 'C-2 General Commercial District,' and Chapter 17.42 'C-M Commercial-Light Industrial District,' to Add Cardrooms as a Permitted Use with a Use Permit in both the C-2 and the C-M Districts," having been introduced at a regular meeting of the Lodi City Council held July 19, 2006, the City Council, on motion of Council Member Beckman, Mounce second, waived reading of the ordinance in full and adopted and ordered it to print by the following vote:

Ayes: Council Members – Beckman, Hansen, Johnson, Mounce, and
Mayor Hitchcock
Noes: Council Members – None
Absent: Council Members – None
Abstain: Council Members – None

M. ADJOURNMENT

There being no further business to come before the City Council, the meeting was adjourned at 10:41 p.m.

ATTEST:

Jennifer M. Perrin
Interim City Clerk